



Attorney Docket No. 49986-0504 (RSID 1-330)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re application of:

Group Art Unit No.: 2854

Zhongming Yu

Examiner: Charles H. Nolan, Jr.

Serial No.: 09/823,803

Filed on: March 30, 2001

For: MULTIPLE PAGE-RANGE PRINTER  
SETTINGS

**REQUEST FOR STATUS OF**  
**PETITION UNDER 37 CFR § 1.144**  
**FROM FINAL REQUIREMENT FOR RESTRICTION**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

On November 3, 2003, and in accordance with 37 CFR § 1.144, Applicant petitioned the Honorable Commissioner for Patents to review and withdraw the final requirement for restriction that has been entered by the Patent Office in respect of the above-identified application. By this letter, Applicant hereby request status of the petition. For your convenience, a copy of the filed petition is included herewith.

No fee is believed to be due specifically in connection with this request for status of the petition. The Commissioner is authorized to charge any fee that may be due in connection with this request for status of a petition to our Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER, LLP

Dated: July 22, 2004



Michael J. Meehan  
Reg. No. 54,705

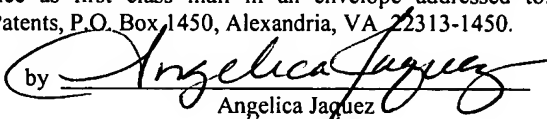
1600 Willow Street  
San Jose, California 95125-5106  
Tel: (408) 414-1080 ext. 208  
Fax: (408) 414-1076

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on July 22, 2004

by



Angelica Jaquez



**COPY**

**Acknowledgment Receipt**

Mailing Date: November 3, 2003

Attorney Docket No. 49986-0504

Serial No.: 09/823,802

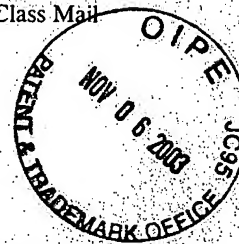
Inventor(s): Zhongming Yu

Title: MULTIPLE PAGE-RANGE PRINTER SETTINGS

Attorney: TJT/aj

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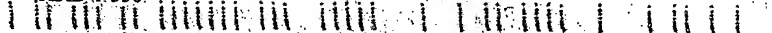
**Documents Enclosed:**

- 1) General Transmittal (1 pg)
- 2) Fee Transmittal (1pg) (in duplicate)
- 3) Petition Under 37 CFR §1.144 (6 pgs) with Exhibits 1-5 (56 pgs)
- 4) Check in the amount of \$130.00
- 5) Return Acknowledgment Postcard

processed by docketing  
no dates docketed

Kindly stamp the receipt date and return to addressee to acknowledge receipt of the above documents.

RSID 1-330



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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	09/823,803	<b>COPY</b>
	Filing Date	March 30, 2001	
	First Named Inventor	Zhongming Yu	
	Group Art Unit	2854	
	Examiner Name	Charles H. Nolan, Jr.	
Total Number of Pages in Submission	63	Attorney Docket Number	49986-0504

## ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition To Convert To a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Petition Under 37 CFR §1.144 From Final Requirement for Restriction w/ Exhibits 1-5.
Remarks		

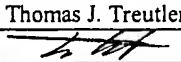
## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Hickman Palermo Truong & Becker LLP
Signature	Thomas J. Treutler
Date	November 3, 2003

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class: mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:		Nov. 3, 2003
Type or printed name	Annette Jacobs	
Signature	Date	November 3, 2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

FEE TRANSMITTAL for FY 2003		Complete if Known																																																																																																																																																																																																																																																																																												
<p>Patent fees are subject to annual revision, Small Entity payments <u>must</u> be supported by a small entity statement, otherwise large entity fees must be paid. See Forms PTO/SB/09-12 See 37 C.F.R. §§ 1.27 AND 1.28</p>		Application Number	09/823,803																																																																																																																																																																																																																																																																																											
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<p>1. <input checked="" type="checkbox"/> Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302. A duplicate of this sheet is enclosed.</p> <p>Deposit Account Number: 50-1302</p> <p>Deposit Account Name: Hickman Palermo Truong &amp; Becker, LLP</p> <p>2. <input checked="" type="checkbox"/> Payment Enclosed:  <input checked="" type="checkbox"/> Check    <input type="checkbox"/> Money Order    <input type="checkbox"/> Other</p> <p>3. <input type="checkbox"/> Applicant(s) is entitled to small entity status. See 37 CFR 1.27.</p>		<p><b>3. ADDITIONAL FEES</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Large Entity Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee Code</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for reexamination</td><td></td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>1252</td><td>420</td><td>2252</td><td>210</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>1253</td><td>950</td><td>2253</td><td>475</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1254</td><td>1,480</td><td>2254</td><td>740</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>1255</td><td>2010</td><td>2255</td><td>1005</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>1401</td><td>330</td><td>2401</td><td>165</td><td>Notice of Appeal</td><td></td></tr> <tr><td>1402</td><td>330</td><td>2402</td><td>165</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>1403</td><td>290</td><td>2403</td><td>145</td><td>Request for oral hearing</td><td></td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - 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Name (Print/Type)	Thomas J. Treutler	Registration No. (Attorney/Agent)	51,126																																																																																																																																																																																																																																																																																											
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Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



**COPY**

49986-0504 (RSID 1-330)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit No.: 2854

Zhongming Yu

Examiner: Charles H. Nolan, Jr.

Serial No.: 09/823,803

Filed on: March 30, 2001

For: MULTIPLE PAGE-RANGE PRINTER  
SETTINGS

**PETITION UNDER 37 CFR § 1.144**  
**FROM FINAL REQUIREMENT FOR RESTRICTION**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR § 1.144, Applicant hereby petitions the Honorable Commissioner for Patents to review and withdraw the final requirement for restriction that has been entered by the Patent Office in respect of the above-identified application.

1. **Background:** In the Requirement for Restriction mailed on April 11, 2003 (see Exhibit 1, attached herewith), the Examiner made a three-way restriction of Claims 1-18 (Group I – class 400, subclass 61); Claims 19-36 (Group II – class 358, subclass 1.18); and Claims 37-42 (Group III – class 400, subclass 76). Applicant traversed the Examiner's requirement for restriction and requested reconsideration thereof in a paper filed on May 8, 2003 (see Exhibit 2, attached herewith). In the office action mailed on August 5, 2003, the Examiner made the requirement for restriction final (see Exhibit 3, attached herewith).

2. **Applicant is Entitled to File This Petition Under 37 CFR § 1.144:** Because the Applicant has filed a request for reconsideration of the requirement for restriction, and because

the requirement has been made final, Applicant is entitled to submit this Petition under 37 CFR § 1.144 for review of the final requirement for restriction.

3. **Standard for Justifying a Restriction Requirement:** According to the MPEP, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions” MPEP § 803. The Examiner asserts that it would be a serious burden for the Examiner to conduct a search in respect of all three claim groups. See Exhibit 3, at page 2, paragraph 1.

4. **The Claim Groups Merely Have Different Preambles, and Examination of the Claim Groups Together Would Not Cause a Serious Burden on the Examiner:** As stated above, the Requirement for Restriction issued on April 11, 2003 asserts a three-way restriction of Claims 1-18 (Group I – class 400, subclass 61); Claims 19-36 (Group II – class 358, subclass 1.18); and Claims 37-42 (Group III – class 400, subclass 76). A copy of the claims as filed can be found in Exhibit 4, which is attached herewith.

Each of these groups of claims contains the identical steps with the only difference being the context stated in the preamble. Although the preambles of the claim groups differ, the limitations in each of the claim groups are the same. Specifically, the Group I claims are recited in the context of a method for printing, the Group II claims are recited in the context of a computer-readable medium for printing and the Group III claims are recited in the context of a system for printing. For example, independent method Claim 1 recites “A method for printing an electronic document, the method comprising:” followed by a set of steps. Independent computer-readable medium Claim 19 recites “A computer-readable medium carrying one or more sequences of instructions for printing an electronic document, wherein execution of the one or more sequences of instructions by one or more processors causes the one or more processors

to perform.” followed by the identical set of steps. Independent system Claim 37 recites “A system for printing an electronic document, comprising: one or more processors; one or more memories coupled to the one or more processors; and one or more sequences of instructions stored in the one or more memories, wherein execution of the one or more sequences of instructions by one or more processors causes the one or more processors to perform the steps of:” followed by the identical set of steps.

Because the claims recite printing an electronic document, a computer-readable medium for printing an electronic document and a system for printing an electronic document with the identical steps, it is respectfully submitted that a single search can be performed covering all claims without serious burden on the Examiner. In view of the foregoing, review and withdrawal of the requirement for restriction is respectfully requested.

**5. Method Claims and Computer-Readable Medium Claims that Recite Identical Steps Are Commonly Examined Together:** Applicant submits that it is common knowledge and practice in the field of patents that method claims and computer-readable medium claims that recite identical steps are examined together, and are not subject to restriction requirements. In this regard, MPEP § 2106, which concerns the examination of computer inventions, states that “[w]hen a computer program is claimed in a process where the computer is executing the computer program’s instructions, Office personnel should treat the claim as a process claim.” See MPEP § 2106, IV.B.1(a), third paragraph. Therefore, claim groups I and II should only constitute a single claim group. Applicant further submits that it is common knowledge and practice that apparatus or system claims that recite an apparatus or system to implement such method claims and computer-readable medium claims are also examined together with the method and computer-readable medium claims, and no restriction requirement is made.



6. **The Examiner's Search Should Not be Based on the Preamble:** In the Office Action that was mailed on August 5, 2003, the Examiner asserts that the different printing contexts set forth in the preambles of the independent claims necessitates separate searches by the Examiner because "the preamble establishes where the search will occur." (Office Action at page 2, first paragraph). Applicant submits that the Examiner's assertion is incorrect. Applicant has reviewed the relevant sections of the MPEP which concern searching, and Applicant is unable to find any authority for the proposition that an Examiner must begin a search based on a claim preamble. Rather, the Examiner "should be fully aware of what the claims do *not* call for, as well as what they do require." See MPEP 904.01, which concerns the "Analysis of Claims" in the context of searching. It is a well-established rule that, in general, a preamble does not limit the scope of a claim. See IMS Tech., Inc. v. Haas Automation, Inc., 206 F.3d 1422, 1434, 54 USPQ2d 1129, 1137 (Fed. Cir. 2000) (holding that preamble phrase "control apparatus" does not limit claim scope when it merely gives a descriptive name to the claimed invention), cited with approval in Storage Technology Corp. v. Cisco Systems, Inc., 329 F.3d 823 (Fed. Cir. 2003). Therefore, because a claim is not limited in scope by a preamble, the preamble is an item that is "not call[ed] for" (e.g., not required) in a claim. Therefore, a preamble should not be considered by the Examiner in a search, let alone be the starting point for a search. The search should be based on the claim limitations, not the preamble. Because all of the independent claims in the application (i.e., claims 1, 19 and 37) all have the same limitations, they can be searched together, and there is no serious burden on the Examiner.

7. **The Examiner's Classifications of the Claim Groups Appear to be Arbitrary:** Applicant submits that the Examiner's decision to classify independent claims 1, 19 and 37 separately appears to be an arbitrary decision. The claims recite the same limitations, but claim, respectively, a method, a computer readable medium and a system. It is very common for a

patent application to include all three of these types of claims. Therefore, it seems unusual for the Examiner to classify these claims separately, given that they recite the identical steps. In fact, in U.S. Patent No. 6,632,035 to Kawamoto for a "Print Control Apparatus and Method" (see Exhibit 5, attached hereto), which was examined by the same Examiner that made the restriction requirement in this case, the Examiner allowed claims relating to printing that involved: (1) an information processing apparatus, (2) a printing control method, (3) a program for causing a computer to perform printing control, (4) a computer-readable storage medium storing a program for causing a computer to perform printing control, (5) a display control apparatus, (6) a program for causing a computer to perform display control, and (7) many other apparatuses, programs and computer-readable storage mediums, without restricting such into separate claim groups.

Therefore, it is unclear why the Examiner is now asserting that method claims, system claims and computer-readable-medium claims must be restricted into separate claim groups.

In particular, the Examiner's assertion that subclasses 400/61 (claim group I) and 400/76 (claim group III) must be searched separately appears to be arbitrary. In Patent No. 6,632,035, which is mentioned above, the Examiner searched in both of these subclasses, but did not make a restriction requirement. Applicant is aware of many patents in which both of these subclasses have been searched without a restriction requirement being made.

8. **A *Prima Facie* Assumption, Based on Separate Classifications, That a Search Would Be a Serious Burden on the Examiner is Rebuttable:** It is true that the Examiner only needs to show a separate classification as evidence of a separate field of search. However, separate classification and a separate field of search are only "*prima facie*" showings of serious burden that "may be rebutted." See MPEP § 803.01. In other words, a separate classification and field of search are at best rebuttable evidence of a serious burden on the Examiner. If there is nonetheless no serious burden in examining the additional claim groupings (because, for

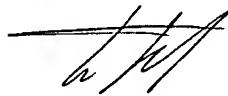
example, they have nearly the same search as argued in the original response to the restriction), the restriction is still improper despite the separate classification. Therefore, even if, assuming *arguendo*, the claims can be classified separately, restriction is not required because, based on the reasons presented above, there is no serious burden on the Examiner.

Based on the foregoing, Applicant respectfully requests that the Honorable Commissioner for Patents withdraw the final requirement for restriction that has been entered in this case. The Honorable Commissioner for Patents is invited to telephone the undersigned at (408) 414-1210 to discuss any issue that may advance prosecution.

The fee believed to be due specifically in connection with this petition is enclosed. To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in connection with this petition to our Deposit Account No. 50-1302.

Respectfully submitted,

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Dated: November 3, 2003

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on November 3, 2003

by

